

Neogen 4.1-49
Appl. No. 10/702,507
Amdt. Dated: April 18, 2007
Reply to Office Action of March 6, 2007

REMARKS

Claims 24, 26 to 32 and 34 to 40 are pending. Claims 25 and 33 have been cancelled and incorporated into Claim 24. No claims are allowed.

Claim 24 has been amended to characterize the "purification membrane" as "consisting of non-woven fibers which is capable of retaining leukocytes in milk". There is no disclosure in the prior art of the use of a purification membrane such as now claimed in an assay using the BlaR or BlaR-CTD protein for the receptor to bind β -lactam antibiotics in milk which pass through the purification membrane.

Claims 24 to 34 and 36 to 40 were rejected as being unpatentable over Markovsky et al. (U.S. Patent No. 6,319,466) in view of Joris et al. (FEMS Microbiology Letters. Vol. 70. No. 1. 15 June 1990, Pages 107-113). This rejection is obviated by the amendments to Claim 24. Markovsky et al. discloses using support 33 as a "secondary filter" underneath the sponge 32 to remove "somatic cells" in the sample assay mobile-phase support zone at Column 9, lines 7 to 14 as noted in the Office Action. This construction is different than Applicants' primary purification membrane 2 as presently claimed.

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Also, there is no discussion of the use of the receptor BlaR or BlaR-CTD proteins for binding antibiotics in the context of this membrane.

Joris et al. describes BLAR proteins having a size of about 10 μ m and 26000 Mr which bind β -lactam antibiotics. There is no discussion of any assay, much less the assay kit of Claims 24 to 40. There would be no way of determining from the references in combination that the claimed test kit for dairy products with the specific receptors claimed would be so effective in determining β -lactam antibiotics as set forth clearly in the Examples in the specification with the claimed purification membrane.

Claims 25 and 34 to 35 were rejected under 35 USC 103(a) as being unpatentable over Markovsky et al. in view of Joris et al. as applied to Claim 24 above, and further in view of Pall et al. (U.S. Patent No. 6,074,869). Column 6, lines 32 to 52 of Pall et al. describe types of leukocytes as blood components. One skilled in the art would have no basis for suggesting that the Pall et al. fibrous web could be used in an assay kit for dairy products as now claimed with BlaR or BlaR-CTD antibiotic binding proteins. Thus, the

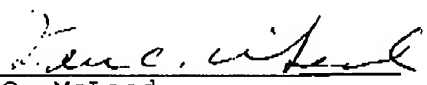
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combination of references does not suggest that claimed invention to one skilled in the art. Reconsideration of this rejection is requested.

Applicants are amending the claims in a manner suggested in the last Office Action. The Applicants would like to thank Examiner Nguyen for the telephone interview on April 12, 2007; however, no agreement was reached with the Examiner in the telephone interview. Entry of this Amendment and allowance is requested.

It is now believed that Claims 24, 26 to 32 and 34 to 40 are in condition for allowance. Notice of Allowance is requested.

Respectfully,



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